

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1704 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MRS.BHADRABEN KUNJBIHARI GOR

Versus

KHEDA DISTRICT PANCHAYAT

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Appearance:

MR MK VAKHARIA for Petitioners

MR HL JANI for Respondent No.3 & 4

None present for other Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/12/97

ORAL JUDGEMENT

Heard learned counsel for the parties.

2. The petitioners filed this Special Civil Application and prayer has been made for direction to the respondents to give them the salary in the pay scale at par with the other Multi Purpose Health Workers with

effect from 1st March, 1977.

3. This claim appears to have been made on the basis of fact that the four categories of the post namely, N.S.P.Vaccinators, Malaria Surveillance Workers, Field Workers and Auxiliary Field Workers, were merged in one cadre and that cadre was given the name of Multi Purpose Health Workers. This merger had taken place from 1.3.77. However, the petitioners were continued in the pay scale of Rs.210-270 whereas the other three categories were given the pay scale of Rs.260-400.

4. The learned counsel for the petitioners does not dispute that the pay scale of the categories of the aforesaid three posts was of Rs.260-400 and that of the category to which the petitioners belong was Rs.210-270. The learned counsel for petitioners claimed this parity in the pay scale on the principle of "equal pay for equal work" and contended that all these persons are discharging similar duties. However, the learned counsel for petitioners admitted that the minimum educational qualifications prescribed for appointments on the three posts aforesaid and the post which the petitioners are holding are different. For the appointment on the post of Auxiliary Field Worker, the minimum educational qualification required was only of VII class pass whereas in the case of three other categories, the minimum educational qualification required was S.S.C. pass.

5. The respondents, in reply to the Special Civil Application gave manifold reasons opposing the claim of the petitioners of parity in the pay scale on the doctrine of "equal pay for equal work". Even if it is taken that the petitioners and other three categories of persons were discharging same duties, then too, only on this ground, this Court cannot grant benefit of the same pay scale to the petitioners. On the basis of educational qualifications, different pay scales could have been prescribed by respondents for a post. Their Lordships, Supreme Court in the case of Shyam Babu Verma & Ors. v. Union of India & Ors., reported in (1994)2 SCC 521, laid down that the qualifications make out a qualitative and quantitative distinction in the working of the persons and as such with reference to higher qualifications different pay scale can be prescribed for a post. Further reference may have to the latest pronouncement of the Apex Court in the case of State of T.N. & Anr. v. M.R.Alagappan & Ors., reported in (1997)4 SCC 401. It is to be noticed at the cost of repetition that since inception, the petitioners were given lower pay scale. Even if it is taken that these

four posts were merged in one category, still the respondents are perfectly legal and justified to continue to give the petitioner the lower pay scale by keeping in view the difference of minimum educational qualifications prescribed for appointment to that category of post.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

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(sunil)